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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Petition for Exemption from the Federal Motor

Vehicle Motor Theft Prevention Standard;

General Motors Corporation

AGENCY: National Highway Traffic Safety Administration,
Department of Transportation (DOT)

ACTION: Grant of petition for exemption.

SUMMARY: This document grants in full General Motors Corporation's (GM) petition for an exemption of the Cadillac ATS vehicle line in accordance with 49 CFR Part 543, Exemption from the Theft Prevention Standard. This petition is granted because the agency has determined that the antitheft device to be placed on the line as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR Part 541).

DATES: The exemption granted by this notice is effective beginning with the 2014 model year (MY).

FOR FURTHER INFORMATION CONTACT: Ms. Carlita Ballard, Office of International Policy, Fuel Economy, and Consumer Standards, NHTSA, W43-439, 1200 New Jersey Avenue, S.E., Washington, DC 20590. Ms. Ballard's phone number is (202) 366-5222. Her fax number is (202) 493-2990.

SUPPLEMENTARY INFORMATION: In a petition dated July 31, 2012, GM requested an exemption from the parts-marking requirements of the Theft Prevention Standard (49 CFR Part 541) for the Cadillac ATS vehicle line beginning with MY 2014. The petition requested an exemption from parts-marking pursuant to 49 CFR 543, *Exemption from Vehicle Theft Prevention Standard*, based on the installation of an antitheft device as standard equipment for the entire vehicle line.

Under §543.5(a), a manufacturer may petition NHTSA to grant an exemption for one vehicle line per model year. In its petition, GM provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for the Cadillac ATS vehicle line. GM will install a passive, transponder-based, electronic immobilizer device (PASS-Key III+) as standard equipment on its Cadillac ATS vehicle line beginning with MY 2014. GM stated that the device will provide protection against unauthorized use (i.e., starting and engine fueling), but will not provide any visible or audible indication of unauthorized vehicle entry (i.e., flashing lights or horn alarm).

The PASS-Key III+ device is designed to be active at all times without direct intervention by the vehicle operator. The device is fully armed immediately after the ignition has been turned off and the key removed. Components of the antitheft device include an electronically-coded ignition key, an antenna module, a controller module and an engine control module. The ignition key contains electronics molded into the key head, providing billions of possible electronic combinations. The electronics receive energy and data from the antenna module. Upon receipt of the data, the key will calculate a response using an internal encryption

algorithm and transmit the response back to the vehicle. The antenna module translates the radio frequency signal received from the key into a digital signal and compares the received response to an internally calculated value. If the values match, the key is recognized as valid, and a password is then transmitted through a serial data link to the engine control module to enable fueling and vehicle starting. If an invalid key code is received, the PASS-Key III+ controller module will send a “Disable Password” to the engine control module and starting, ignition, and fuel will be inhibited.

In addressing the specific content requirements of 543.6, GM provided information on the reliability and durability of its proposed device. To ensure reliability and durability of the device, GM conducted tests based on its own specified standards. GM provided information on the specific tests it uses to validate the integrity, durability and reliability of the PASS-Key III+ device and believes that the device is reliable and durable since the components must operate as designed after each test. GM also stated that the design and assembly processes of the PASS-Key III+ subsystem and components are validated for 10 years of vehicle life and 150,000 miles of performance.

GM stated that the PASS-Key III+ device has been designed to enhance the functionality and theft protection provided by its first, second and third generation PASS-Key, PASS-Key II, and PASS-Key III devices. GM also referenced data provided by the American Automobile Manufacturers Association (AAMA) in support of the effectiveness of GM’s PASS-Key devices in reducing and deterring motor vehicle theft. The AAMA’s comments to the agency’s Preliminary Report on “Auto Theft and Recovery Effects of the Anti-Car Theft Act of 1992 and

the Motor Vehicle Theft Law Enforcement Act of 1984”, (Docket 97-042; Notice 1), showed that between MYs 1987 and 1993, the Chevrolet Camaro and Pontiac Firebird vehicle lines experienced a significant theft rate reduction after installation of a Pass-Key like antitheft device as standard equipment on the vehicle lines.

GM also stated that the theft data, as provided by the Federal Bureau of Investigation’s National Crime Information Center (NCIC) and compiled by the agency, show that theft rates are lower for exempted GM models equipped with the PASS-Key like systems than the theft rates for earlier models with similar appearance and construction that were parts-marked. Based on the performance of the PASS-Key, PASS-Key II, and PASS-Key III devices on other GM models, and the advanced technology utilized in PASS-Key III+, GM believes that the PASS-Key III+ device will be more effective in deterring theft than the parts-marking requirements of CFR Part 541.

Additionally, GM stated that the PASS-Key III+ is installed as standard equipment on the Cadillac CTS vehicle line. GM was granted an exemption from the parts-marking requirements by the agency for the Cadillac CTS vehicle line beginning with the 2011 MY (See 74 FR 62385, November 27, 2009). The average theft rate using 3 MYs theft data (MYs 2008 – 2010) provided by the agency for the Cadillac CTS vehicle line is 1.49.

GM believes that PASS-Key III+ devices will be more effective in deterring theft than the parts-marking requirements and that the agency should find that inclusion of the PASS-Key III+ device on the Cadillac ATS vehicle line is sufficient to qualify it for full exemption from the parts-marking requirements.

GM's proposed device lacks an audible or visible alarm. Therefore, this device cannot perform one of the functions listed in 49 CFR Part 543.6(a)(3), that is, to call attention to unauthorized attempts to enter or move the vehicle. Based on comparison of the reduction in the theft rates of Chevrolet Corvettes using a passive theft deterrent system along with an audible/visible alarm system to the reduction in theft rates for the Chevrolet Camaro and the Pontiac Firebird models equipped with a passive theft deterrent device without an alarm, GM finds that the lack of an alarm or attention-attracting device does not compromise the theft deterrent performance of a device such as PASS-Key III+ system. Theft data have indicated a decline in theft rates for vehicle lines equipped with comparable devices that have received full exemptions from the parts-marking requirements. In these instances, the agency has concluded that the lack of an audible or visible alarm has not prevented these antitheft devices from being effective protection against theft.

Pursuant to 49 U.S.C. 33106 and 49 CFR 543.7(b), the agency grants a petition for exemption from the parts-marking requirements of Part 541, either in whole or in part, if it determines that, based upon substantial evidence, the standard equipment antitheft device is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of Part 541. The agency finds that GM has provided adequate reasons for its belief that the antitheft device for the Cadillac ATS vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR Part 541). This conclusion is based on the information GM provided about its device.

The agency concludes that the device will provide four of the five types of performance listed in §543.6(a)(3): promoting activation; preventing defeat or circumvention of the device by unauthorized persons; preventing operation of the vehicle by unauthorized entrants; and ensuring the reliability and durability of the device.

Based on the evidence submitted by GM, the agency believes that the antitheft device for the Cadillac ATS vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR 541).

For the foregoing reasons, the agency hereby grants in full GM's petition for exemption for the Cadillac ATS vehicle line from the parts-marking requirements of 49 CFR Part 541, beginning with the 2014 model year vehicles. The agency notes that 49 CFR Part 541, Appendix A-1, identifies those lines that are exempted from the Theft Prevention Standard for a given model year. 49 CFR Part 543.7(f) contains publication requirements incident to the disposition of all Part 543 petitions. Advanced listing, including the release of future product nameplates, the beginning model year for which the petition is granted and a general description of the antitheft device is necessary in order to notify law enforcement agencies of new vehicle lines exempted from the parts marking requirements of the Theft Prevention Standard.

If GM decides not to use the exemption for this line, it should formally notify the agency. If such a decision is made, the line must be fully marked according to the requirements under 49 CFR Parts 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if GM wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption. Part 543.7(d) states that a Part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the antitheft device on which the line's exemption is based. Further, Part 543.9(c)(2) provides for the submission of petitions "to modify an exemption to permit the use of an antitheft device similar to but differing from the one specified in that exemption."

The agency wishes to minimize the administrative burden that Part 543.9(c)(2) could place on exempted vehicle manufacturers and itself. The agency did not intend in drafting Part 543 to require the submission of a modification petition for every change to the components or design of an antitheft device. The significance of many such changes could be *de minimis*. Therefore, NHTSA suggests that if the manufacturer contemplates making any changes, the effects of which might be characterized as *de minimis*, it should consult the agency before preparing and submitting a petition to modify.

Authority: 49 U.S.C. 33106; delegation of authority at 49 CFR 1.50.

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Christopher J. Bonanti
Associate Administrator for
Rulemaking

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